

FILED

2008 FEB 11 AM 10:54

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Robert A. Mautino
Mautino & Mautino
California State Bar No. 54071
1059 10th Avenue
San Diego, CA 92101
Telephone: (619) 235-9177
E-mail: bob@mautino.org

BY OP DEPUTY

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Guillermo Alejandro Rodriguez,

Plaintiff

-vs-

Michael Chertoff, Secretary, Emilio
Gonzalez, Director, Paul Pierre, District
Director, Department of Homeland
Security, and Michael Mukasey,
Attorney General

Defendants

No.

'08 CV 0255 LAB AJB

COMPLAINT FOR REVIEW OF
NATURALIZATION APPLICA-
TION; 8 U.S.C. 1447(b)

CIS Nos. A041-697-783
WSC*001031051

Plaintiff, by his attorney, complaining of Defendants alleges as follows:

1. Plaintiff is a lawful permanent resident who resides within the jurisdiction of this Court. Plaintiff's claim to relief arises under 8 U.S.C. 1421 et seq.

2. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security (DHS). Emilio Gonzalez is the Director of the bureau of Citizenship and Immigration Services (CIS) of the DHS, Paul Pierre is the District Director of the San Diego District of the CIS, and Michael Mukasey is the Attorney General of the United States. All Defendants are sued herein in their official capacities. Plaintiff alleges, on information and belief, that Defendants are in charge of the processing

1 and adjudication of applications for naturalization under 8 U.S.C. 1421, et seq.

2 3. The Court has jurisdiction of this action pursuant to 8 U.S.C. 1447(b) and
3 5 U.S.C. 701 et seq., and relief is requested pursuant to said statutes.
4

5 4. On or about October 3, 2003, the Plaintiff filed an application for
6 naturalization with the Defendants. He was examined on his application by
7 Defendants agent Daisy Lintz on August 27, 2004. At that time, agent Lintz
8 informed him that he had passed the examinations in English and United States
9 history and government. Ms. Lintz requested further information from the Plaintiff,
10 and he provided same within the time allotted.
11

12 5. The Plaintiff has not received any decision on his application.

13 6. The failure of Defendants to make a decision on the Plaintiff's application for
14 naturalization within 120 days of the date of his examination allows the Plaintiff to
15 seek the assistance of this Court under 8 U.S.C. 1447(b).
16

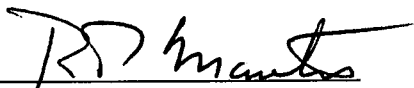
17 WHEREFORE, Plaintiff prays:

18 That the Court will take jurisdiction of his application for naturalization,

19 That the Court will render a decision on his application and

20 That the Court will award such other and further relief as to this Court may
21 seem reasonable and proper.

22
23 Dated: 02/11/2008


Robert A. Mautino
Mautino & Mautino
Attorney for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Guillermo Alejandro Rodriguez

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Mautino and Mautino (619) 235-9177
1059 10th Ave., San Diego, CA 92101

DEFENDANTS

Michael Chertoff, et al.

2008 FEB 11 AM 10:55

(IN U.S. PLAINTIFF CASES ONLY)

CLERK OF DISTRICT COURT, SOUTHERN DISTRICT OF CALIFORNIA

Attorneys (If Known) 08 DEPUTY

CV 0255 LAB AJB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 PTF DEF
- Citizen of Another State ☐ 2 ☐ 2 PTF DEF
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 PTF DEF
- Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Renounced
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

8 U.S.C. 1447(b)

Brief description of cause:

Action for Review of Naturalization Application

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 147454

AMOUNT \$350

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

147454 - BH

**February 11, 2008
09:54:11**

Civ Fil Non-Pris
USAO #.: 08CV0255 CIVIL FILING
Judge..: LARRY A BURNS
Amount.: \$350.00 CK
Check#.: BC# 10683

Total-> \$350.00

**FROM: RODRIGUEZ V. CHERTOFF ET AL
CIVIL FILING**